

Border Enforcement Accountability, Oversight, and Community Engagement Act

SECTION-BY-SECTION

Section 1 – Short Title

Section 2 – Stakeholder and Community Engagement

Section 3 – Establishment of the Office of the Ombudsman for Border and Immigration Related Concerns

Section 4 – Training and Continuing Education

Section 5 – Management of Ports of Entry

Section 6 – Reporting Requirements

Section 1

This section designates the title of the bill as the “Border Enforcement Accountability, Oversight, and Community Engagement Act of 2014.”

Section 2

This section of the bill establishes an independent commission known as the Department of Homeland Security Border Oversight Commission (Commission). The Commission will be led by a Chair and Vice Chair and be comprised of both a northern and southern border subcommittee, with membership equally divided between the two.

Each subcommittee will consist of ten members from their respective border regions, including at least one CBP Officer or Border Patrol Agent. The President is required to appoint four representatives from the northern border region and four representatives from the southern border region; the House Speaker is required to appoint three representatives from the northern border region and three representatives from the southern border region; and the Senate Majority leaders is required to appoint three representatives from the northern border region and three from the southern border region. Subcommittee members will elect the Chair and Vice Chair, which may not be from the same subcommittee.

The Chair, Vice Chair, and Subcommittee Members will each serve a term of four years. During this time the Commission is required to meet at least semiannually while the Subcommittees will be required to meet at least quarterly. Each may convene additional meetings as necessary. Moreover, the Commission and subcommittees are authorized to hold hearings and receive testimony that will serve to support their evaluation of Department policy and procedure. The Commission is further granted subpoena power to carry out this responsibility.

The Commission and the subcommittees will be responsible for evaluating the Department of Homeland Security’s (DHS) border security and immigration related practices. Specifically, the Commission’s responsibilities include:

- The development of recommendations for improving border enforcement strategies;

- An evaluation of Federal agencies' policies operating along the northern and southern borders that protect due process, civil rights, private property, and efforts to reduce migrant deaths;
- Improve and make recommendations to increase the safety of CBP Officers and Agents while in the field; and
- An evaluation of training courses for individuals in management and supervisory roles.

Commission members will include qualified security and training experts, civil rights and civil liberties experts, representatives of faith based organizations, officials from local law enforcement on the northern and southern borders, officials from local government on the northern and southern border, and business and civic organizations.

Section 3

This section amends Section 452 of the Homeland Security Act of 2002 (6 U.S.C. 272) to establish within the Department of Homeland Security (DHS) an Ombudsman for Border and Immigration Related Concerns (Ombudsman).

The Ombudsman will be responsible for representing the interests of the public by investigating and addressing complaints of maladministration or violation of an individual's rights along our country's borders. Specifically, the Ombudsman's responsibilities include:

- The establishment of a timely process to receive, investigate, resolve, and provide redress for complaints against the border security and immigration components of the Department;
- Assist individuals and families who are victims of crimes committed by aliens or violence near the U.S. border;
- Identify areas of improvement for the Department's border security and immigration components;
- Propose changes to the Department's administrative practices relating to border security and immigration;
- Review and make recommendations regarding border security and immigration enforcement activities;
- Recommend, and in certain instances, take disciplinary actions against contract personnel with the Department for violation for departmental policies or procedures;
- Refer complaints of the violation of the departmental policies or procedures by any Department employee relating to border security or immigration activity to the Inspector General of the Department;
- Establish a publicly accessible national database that is capable of tracking and analyzing complaints and their resolution; and
- Establish an online detainee locator system for persons held in CBP custody.

The Ombudsman is required to annually submit to the House Committee on Homeland Security and the Senate Committee on Homeland Security and Governmental Affairs a report, which describes the work of the Ombudsman's office for the previous year. The report will detail the number and type of complaints received by the local ombudsmen, an inventory of complaints and whether or not a resolution has been reached, and recommendations the Ombudsman has

made to improve the services and responsiveness of the Department's border security and immigration components, among other things.

The Ombudsman, in conjunction with the Department's Office of Civil Rights and Civil Liberties, is required to establish a Border Community Liaison Office (Liaison Office) in each of the Border Patrol sectors of the northern and southern border regions. The purpose of the Liaison Offices is to foster cooperation between CBP and the border communities in which they serve. The Liaison Offices will generally be comprised of three members appointed by the Ombudsman.

This section also includes separate reporting requirements on the impact of border enforcement technologies and operations on border communities and CBP's claimed authority to perform border enforcement activities within the interior of the United States.

Section 4

This section titled "Training and Continuing Education" mandates that every CBP Officer and Agent receive a minimum of 19 weeks of training that is directly related to the mission of the Border Patrol and Office of Field Operations. The training will occur at the Federal Law Enforcement Training Center (FLETC) and training courses will cover issues pertaining to community relations, interdiction practices, vulnerable populations, cultural and societal issues, and standards of professional conduct.

The Secretary is also be required to develop and implement additional training for CBP and ICE Officers and Agents who work in supervisory or management positions. This will include instruction relating to management best practices and instruction on the use of force, intervention, community relations and professional conduct.

CBP and ICE Officers and Agents who are required to participate in the above described additional trainings will also be required to annually participate in continuing education courses. The purpose of these courses is to serve as a refresher on Departmental policies, procedures, and guidelines. Specifically, these courses will cover Constitutional rights, identifying and detecting fraudulent documents, identifying, screening and responding to vulnerable populations, and social and cultural sensitivity toward border communities.

Any courses offered as part of the continuing education requirement of this bill shall be first approved by the Secretary of Homeland Security and administered in such a way that provides individual Border Patrol Sectors and Field Operations Offices the flexibility and independence to design the courses to their specific needs.

Section 5

This section requires the Secretary of Homeland Security to submit to the House Committee on Homeland Security and Senate Committee on Homeland Security and Governmental Affairs a

report that assesses the current standards and guidelines for managing ports of entry (POE) in the United States. Specifically, the report will include details on:

- Current staffing levels and the need for additional staffing at POEs;
- Rules governing the actions of the Office of Field Operations employees;
- Average delay of transit through a POE disaggregated for air, land, and sea;
- An assessment of how existing technologies used for border security affect the facilitation of trade at POEs, civil rights, private property rights, privacy rights, and civil liberties;
- An assessment of the economic impact of CBP Agricultural Specialists; and
- Physical infrastructure and technological needs at ports of entry.

Based on the information provided in the above report, the Secretary is required to establish updated guidelines and standards for managing POEs to address and identify needs or shortcomings.

Section 6

The reporting requirements in this Section focus on two separate topics: migrant deaths at the border and CBP use of force policies. The Commissioner of CBP is required to submit to the House Homeland Security and the Senate Homeland Security and Governmental Affairs Committee a report relating to migrant deaths occurring along the U.S.-Mexico border.

The report will include information on the number of documented migrant deaths; a geographical breakdown of where such deaths occur; the cause of death of each migrant (to the extent possible); the extent to which border technology, physical barriers, and enforcement programs have contributed to migrant death; and a detailed description of CBP's programs or plans to reduce the number of migrant deaths along the border, including an assessment on the effectiveness of water supply sites and rescue beacons.

In response to the Commissioner's report, the Government Accountability Office is required to review the report to determine the validity of CBP's statistical analysis of migrant deaths; the extent to which CBP has adopted measures to reduce the frequency of migrant deaths and their effectiveness; and the extent of data information sharing between CBP and other stakeholders to identify deceased individuals and notify family members.

Lastly, the GAO will issue a report on CBP use of force policy, which detail the extent to which CBP has: implemented new training tactics to improve use of force policy; identified alternative weapons and equipment to improve Officers' and Agents' abilities to de-escalate confrontations; established a stakeholder engagement framework to improve CBP's use of force training; established metrics to track the effectiveness of use of force training; implemented best practices to improve communication with family members of individuals injured or killed by CBP Officers' and Agents' use of force; whether recommendations and requests made by CBP Officers and Agents have been implemented into CBP and DHS use of force policies and best practices; and electronically tracked personal searches and seizures at the border.

The Secretary, through the Commissioner of CBP, is required to implement recommendations contained within the GAO report. If the Secretary chooses not to implement the recommendations, the Secretary is required to submit to the House Committee on Homeland Security and the Senate Homeland Security and Governmental Affairs Committee written notification explaining why such recommendations are not being implemented.